



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

February 17, 1982

Mr. William E. Perry III
Deputy Pima County Attorney
111 Lamina Avenue
Ajo, Arizona 85321

Re: I82-021 (R81-18)

Dear Mr. Perry:

Pursuant to A.R.S. § 15-253.B, we decline to review your opinion dated November 17, 1981, to the Board of Education of the Ajo Unified School District No. 15 concerning the exclusive recognition of one employee organization for meet and confer purposes. Please note that a case concerning this issue is currently pending before the United States Supreme Court. The case is Pea v. Plea, 50 U.S. Law Week 3502.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:LPS:ta

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STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

November 17, 1981

Board of Education
Ajo Unified School District 15
P.O. Box 68
Ajo, Arizona 85321

EDUCATION OPINION

ISSUE NO LATER THAN

2-12-82

12-15-81/jc
LOWE
R81-183

Dear Mr. Schlotterer and Board Members:

We have reviewed the Ajo Board of Education's meet and confer policy and conclude that it follows the general guidelines contained in Attorney General Opinions 74-11 and 181-040. Thus, in answer to your question, we believe that the Board of Education has the right to recognize only one employee in meet and confer, if it so desires. The Board is not required to be so restrictive, however.

Attorney General Opinion 181-040 reviewed a Cochise County Attorney Opinion which stated that a school board must meet and confer with all employee organizations. In his review, the Attorney General cited a federal court case, Memphis Am. Fed'n of Teachers Local 2032 v. Bd. of Educ., 534 F.2d 699 (6th Cir. 1976), which held that a board of education may restrict negotiations to a single employee organization as long as there is a rational basis for doing so. In this case, the school board required an employee organization to represent at least two-thirds of the employees before it would be allowed to negotiate with the board. This policy was based on "the goal of labor place and stability." 534 F.2d 703. The court found that the goal provided a rational basis for the two-thirds representation requirement.

Because the Attorney General cited with favor the federal case mentioned above, we are of the opinion that your goal of providing "an orderly means for resolving disputes" serves as a rational basis for your policy which requires an employee organization to enroll a majority of certified employees to be recognized for meet and confer purposes.

In addition three other federal cases have reached the same result. See Connecticut State Fed'n of Teachers v. Bd. of Educ. Members, 538 F.2d 471 (1976); Fed'n of Delaware Teachers

v. Delaware Bd. of Educ., 335 F. Suppl. 385 (1971) and Local 858 of Am. Fed'n of Teachers v. School Dist. No. 1 in County of Denver, 314 F. Supp 1069 (1970).

Notwithstanding the above discussion, the Board must still allow individual teachers access to the meet and confer process, whether the individual teacher is represented by an employee organization or not, in accordance with Attorney General Opinion 74-11.

A copy of this opinion is being sent to the Attorney General for his concurrence, revision or non-review.

Sincerely,

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

By *William E. Perry III*
William E. Perry III
Deputy County Attorney

WEP:gr